

REMARKS

Reconsideration of this application as amended is respectfully requested. Claims 1-52 are pending. Claims 1-43 were rejected. Claims 44-52 were allowed. In this response, claims 1 and 33 have been amended. No claims have been cancelled or added. No new matter has been introduced as a result of these amendments. Thus, claims 1-52 are pending.

Applicants thank the Examiner for indicating that claims 44-52 contain allowable subject matter.

“The examiner's action will be complete as to all matters” where such matters include rejecting claims “for want of novelty or for obviousness” (*See* MPEP 707; 37 C.F.R. § 1.104). Because claims 1-43 were rejected under 35 U.S.C. § 101 only, and not rejected for want of novelty or for obviousness under §102 or §103, the Applicants thank the Examiner for indicating that said claims satisfy the requirements of patentability under § 102 and § 103.

35 U.S.C. §101 Rejection

The Examiner rejected claims 1-43 under 35 U.S.C. § 101 as being drawn to non-statutory subject matter. The Applicants respectfully disagree for the reasons discussed below.

With respect to claims 1, Applicants claim a method for performing memory load and copy operations utilizing a merge operation. The Examiner has stated with respect to the claim, however, “all of the recited steps are program directed, i.e. they are specified by the program, but the claims are lacking structure that would enable the functionality to be realized” (Final Office Action, mailed January 3, 2007, page 2). Claim 1, as amended, recites operations that are actively being performed “in a processor” by “one or more

hardware execution units.” Furthermore, the operations involve “a source memory data storage location and a destination data storage location” and a determination of “whether the memory operation involves a misaligned memory address between the source data storage location and the destination data storage location” (*See* Claim 1). The Interim Guidelines for Examination of Patent Applications for Patent Subject Matter Eligibility (hereinafter “The Guidelines”) states:

When a computer program is recited in conjunction with a physical structure, such as a computer memory, USPTO personnel should treat the claim as a product claim.

(The Guidelines, Annex IV.(a))

Thus, Applicants respectfully submit that claim 1, which actively performs operation in conjunction with specific pieces of hardware, contains statutory subject matter. (MPEP 2106.IV.B.2.(a)). Therefore, Applicants respectfully submit that claim 1, which is actively performing operations in conjunction with specific pieces of hardware, contains statutory subject matter.

With respect to claim 17, Applicants claim a method for performing a misaligned memory operation. In the method claimed by the applicants, operations are performed including “*loading* a first portion of source data from said source memory address,” “*loading* a first boundary aligned destination data block including said destination memory address,” and “*storing* said first merged data block with an aligned store operation at an address of said first boundary aligned destination data block.” The operations claimed by the Applicants are not a “program per se,” but rather include accessing hardware devices, reading data and instructions from memory and storing results of the methods in a memory, etc. (*See* Claim 17). Each of these operations leads

to practical benefits in the technological arts (*See e.g.*, Specification, paragraphs [0042] and [0116], **Figure 8A-8D**). Thus, Applicants respectfully submit that claim 17, which actively performs operation in conjunction with specific pieces of hardware, contains statutory subject matter and request withdrawal of the rejections.

With respect to claim 22, the Applicants have amended the specification to distinguish machine-readable storage medium and machine transmission medium. In light of the amendment, claim 22 recites limitations that do not include carrier waves within the scope of the claims. Therefore, the Applicants submit that claim 22 contains statutory subject matter and respectfully request withdrawal of the rejection.

With respect to amended claim 33, the Applicants have claimed in part “a hardware execution unit to execute an instruction requesting a memory operation ...”

Because claim 33, as amended, includes a “hardware execution unit” to execute the instruction, the Apparatus claimed in claim 33 is a special purpose hardware device for executing the requested memory operation (*See, e.g.*, Specification, paragraphs [0048] and [0054]; **Figure 1A, 2**).

As recited in the MPEP:

If a claim defines a useful machine or manufacture by identifying the physical structure of the machine or manufacture in terms of its hardware or hardware and software combination, it defines a statutory product. *See, e.g., Lowry*, 32 F.3d at 1583, 32 USPQ2d at 1034-35; *Warmerdam*, 33 F.3d at 1361-62, 31 USPQ2d at 1760. MPEP 2106.IV.B.2 (Emphasis Added)

Furthermore, the MPEP continues to state:

A claim limited to a machine or manufacture, which has a practical application in the technological arts, is statutory. In most cases, a claim to a specific machine or manufacture will have a practical application in the technological arts. *See Alappat*, 33 F.3d at 1544, 31 USPQ2d at 1557. MPEP 2106.IV.B.2

Thus, according to the MPEP, the Applicants' claim, which is directed to an embodiment of a specific piece of hardware, with practical applications in the technological arts, contain statutory subject matter (MPEP 2106.IV.B.2.(a)).

The remaining claims, which depend from claims 1, 17, 22, and 33, add additional features and limitations for the claimed embodiments of the specific hardware elements, products and processes. Therefore, for similar reasons the remaining dependent claims also contain statutory subject matter.

Therefore, for at least the reasons discussed above, the Applicants respectfully request withdrawal of the rejection of claims 1-43 under § 101.

CONCLUSION

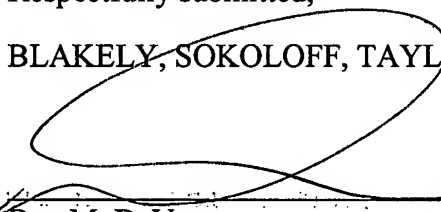
Applicants respectfully submit the present application is in condition for allowance. If the Examiner believes a telephone conference would expedite or assist in the allowance of the present application, the Examiner is invited to call the undersigned at (408) 720-8300.

Authorization is hereby given to charge our Deposit Account No. 02-2666 for any charges that may be due.

Respectfully submitted,

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